IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 3941 of 1995

Between:

M/s Madhav Ice Factory, I.D.A.,

Bollarum, Medak Distric, rep. by

Its Proprietor, K.D.Goyal.

..... PETITIONER

AND

1.The A.P.State Electricity Board,

Vidyut Soudha, Somajiguda, Hyderabad

Rep. by its Member Secretary.

2.The Chief Engineer, Electricity, APSEB

Hyderabad Zone, Hyderabad.

3.The Superintending Engineer, Electrical

Assessments (Special) APSEB, 4th floor,

New buildings, Vidyut Soudha, Somajiguda

Hyderabad.

4.The Asst.Dividional Engineer, Construction,

Operation, APSEB, Patancheru, Medak District.

5.The Superintending Engineer, Operation

Circle, APSEB, Medak District.

---..RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or an order or direction more particularly one in the nature of Writ of Mandamus declaring the order of the 3rd respondent made in Lr.No.SE/A/Spl/Hyd/F.MDK-9/D.No.857/92, dated 30-11-1992/4-12-1992 as confirmed by the 2nd respondent by his order made in Appeal No.A2 of 1993 as also highly illegal, arbitrary, unjust, void and consequently set aside the same.

Counsel for the Petitioner: MR.DUBA VN BABU

Counsel for the Respondents: SMT.M.VINOBHA DEVI. STANDING COUNSEL FOR APSEB

The Court made the following :

ORDER

Heard the learned counsel for the petitioner and also the learned Standing Counsel appearing on behalf of the respondents.

The petitioner, which is an Ice Factory, files this Writ Petition, *inter alia* seeking to assail the impugned proceedings of the 3rd respondent herein dated 4-12-1992, making a demand on the basis of final assessment, as confirmed in the appeal by the 2nd respondent as bad and illegal.

The case of the petitioner in brief is that during the inspection made on 10-1-1991, the said irregularities have been found and the petitioner's power supply was disconnected on

10-1-1991. Thereafter, on 4-2-1991 a provisional assessment was made followed by a show cause notice dated 5-3-1992 for which the petitioner has

filed a comprehensive explanation dated
21-5-1992. Considering the same, final assessment has been made on 30-11-1992/4-12-1992, against which the petitioner has filed an appeal and the same was also dismissed. Hence the Writ Petition.

The learned counsel appearing on behalf of the petitioner submits that there is a hole in the meter box and without considering the same, the respondent assessed the same without any basis and finding of pilferage of energy is wholly unsustainable.

The learned Standing Counsel appearing on behalf of the respondents sought to sustain the finding on the ground that both the authorities arrived at the finding of fact as against the petitioner.

Considering the submissions made and on perusal of material, it is seen that apart from other allegations as made against the petitioner, there is no serious dispute on behalf of the petitioner that in the meter box a hole is found and the same was noticed during the course of inspection on 10-1-1991. Though the petitioner has filed the explanation, the same was denied. Ultimately final assessment was made and the appeal preferred by the petitioner was also dismissed. Having regard to the finding of fact as arrived at by both the authorities and the circumstance that the hole was found in the meter box, and especially long lapse of time from the date of inspection and the entire assessment was made purely on the guesswork, it cannot be said that demand as made is quite reasonable.

In the circumstances, the Writ Petition is partly allowed reducing the demand from Rs.1,22,158/- to Rs.61,079-40 paise. It is needless to mention that any payments made in the meanwhile, shall be given credit to. No costs.

25-11-2004.

Hsd

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on this Thursday, the Twenty Fifth day of November Two thousand and Four.

Asst.Registrar

To

1.The Member Secretary A.P.State Electricity Board,

Vidyut Soudha, Somajiguda, Hyderabad

2.The Chief Engineer, Electricity, APSEB

Hyderabad Zone, Hyderabad.

3.The Superintending Engineer, Electrical

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